

Bureau of Indian Affairs, Interior

§ 179.5

179.202 Can the holder of a life tenancy without regard to waste deplete the resources?

AUTHORITY: 86 Stat. 530; 86 Stat. 744; 94 Stat. 537; 96 Stat. 2515; 25 U.S.C. 2, 9, 372, 373, 487, 607, and 2201 *et seq.*

SOURCE: 73 FR 67286, Nov. 13, 2008, unless otherwise noted.

Subpart A—General

§ 179.1 What is the purpose of this part?

This part contains the authorities, policies, and procedures governing the administration of life estates and future interests in trust and restricted property by the Secretary of Interior. This part does not apply to any use rights assigned to tribal members by tribes in the exercise of their jurisdiction over tribal lands.

(a) Subpart A contains general provisions.

(b) Subpart B describes life estates not created under the American Indian Probate Reform Act of 2004 (AIPRA), as described in § 179.3(b).

(c) Subpart C describes life estates created under AIPRA, as described in § 179.3(a).

§ 179.2 What definitions do I need to know?

Agency means the Bureau of Indian Affairs (BIA) agency office, or any other designated office in BIA, having jurisdiction over trust or restricted property. This term also means any office of a tribe that has entered into a contract or compact to fulfill applicable BIA functions.

AIPRA means the American Indian Probate Reform Act of 2004, Pub. L. 108-374, as codified at 25 U.S.C. 2201 *et seq.*

BIA means the Bureau of Indian Affairs within the Department of Interior.

Contract bonus means cash consideration paid or agreed to be paid as incentive for execution of a contract.

Income means the rents and profits of real property and the interest on invested principal.

Life estate means an interest in property held for only the duration of a designated person's life. A life estate may

be created by a conveyance document or by operation of law.

Life estate without regard to waste means that the holder of the life estate interest in land is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.

Principal means the corpus and capital of an estate, including any payment received for the sale or diminishment of the corpus, as opposed to the income.

Rents and profits means the income or profit arising from the ownership or possession of property.

Restricted property means real property, the title to which is held by an Indian but which cannot be alienated or encumbered without the Secretary's consent. For the purpose of probate proceedings, restricted property is treated as if it were trust property.

Except as the law may provide otherwise, the term "restricted property" as used in this part does not include the restricted lands of the Five Civilized Tribes of Oklahoma or the Osage Nation.

Secretary means the Secretary of the Interior or authorized representative.

Trust property means real property, or an interest therein, the title to which is held in trust by the United States for the benefit of an individual Indian or tribe.

§ 179.3 What law applies to life estates?

(a) AIPRA applies to life estates created by operation of law under AIPRA for an individual who died on or after June 20, 2006, owning trust or restricted property.

(b) In the absence of Federal law or federally approved tribal law to the contrary, State law applies to all other life estates.

§ 179.4 When does a life estate terminate?

A life estate terminates upon relinquishment or upon the death of the measuring life.

§ 179.5 What documents will BIA use to record termination of a life estate?

The Agency will file a copy of the relinquishment of the interest or death